

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

CATHRIN A. FUNK-VAUGHN,

Plaintiff,

v.

**TENNESSEE DEPARTMENT OF
CHILDREN'S SERVICES,**

Defendant.

NO. 3:18-cv-01286

CHIEF JUDGE CRENSHAW


ORDER

Pending before the Court is a Report and Recommendation (Doc. No. 14) in which Magistrate Judge Brown recommends that the Court grant Defendant's Motion to Dismiss (Doc. No. 6) and deny Plaintiff's Motion for Default and Court Date (Doc. No. 12). No objections have been filed. Nevertheless, the Court has reviewed the Report and Recommendation and agrees with Magistrate Judge Brown's thorough analysis. Specifically, the Magistrate Judge correctly concludes that the Tennessee Department of Children's Services is a department of the State of Tennessee that is (1) immune from suit under the Eleventh Amendment of the United States Constitution and (2) not a "person" for purposes of liability under 42 U.S.C. § 1983. (Doc. No. 14 at 8-9 (citing cases)); see also Gean v. Hattaway, 330 F.3d 758, 766 (6th Cir. 2003) ("[B]oth the Tennessee Department of Children's Services and the Department of Finance are 'the State.'") Furthermore, to the extent Plaintiff seeks to add the Rutherford County Juvenile Court and Murfreesboro Police Department as defendants, the Magistrate Judge's analysis makes clear that such amendments would be futile under a combination of the Rooker-Feldman doctrine and Heck v. Humphrey, 512 U.S. 477 (1994), because Plaintiff's claims against those defendants would seek to overturn state court proceedings and attack criminal convictions in civil proceedings. (Id. at 9-

11 (citing Exxon Mobile Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 283-84 (2005); Pletos v. Makower Abatte Guerra Wegner Vollmer, PLLC, 731 F. App'x 431, 434-36 (6th Cir. 2018).) Finally, the Magistrate Judge correctly concluded that Plaintiff's Motion for Default should be denied because Defendant properly filed a Motion to Dismiss within the time allowed by the Federal Rules of Civil Procedure. (Id. at 11 (citing Fed. R. Civ. P. 12).)

Accordingly, the Report and Recommendation (Doc. No. 14) is **APPROVED AND ADOPTED**. Defendant's Motion to Dismiss (Doc. No. 6) is **GRANTED**. Plaintiff's Motion for Default and for Court Date (Doc. No. 12) is **DENIED**. This case is dismissed. This is a final order. The Clerk shall issue judgment in accordance with the Federal Rules of Civil Procedure and close the file.

IT IS SO ORDERED.



WAVERLY D. CRENSHAW, JR.
CHIEF UNITED STATES DISTRICT JUDGE